

Lori Rifkin, Esq. (CA # 244081)
(*pro hac vice*)
HADSELL STORMER & RENICK LLP
4300 Horton Street, #15
Emeryville, CA 94608
Telephone: (415) 685-3591
Facsimile: (626) 577-7079
Email: lrifkin@hadsellstormer.com

Dan Stormer, Esq. (CA # 101967)
(*pro hac vice*)
Shaleen Shanbhag, Esq. (CA # 301047)
(*pro hac vice*)
HADSELL STORMER & RENICK LLP
128 N. Fair Oaks Avenue
Pasadena, California 91103
Telephone: (626) 585-9600
Facsimile: (626) 577-7079
Emails: dstormer@hadsellstormer.com
sshahbhag@hadsellstormer.com

Attorneys for Plaintiff

Craig Durham (ISB # 6428)
Deborah Ferguson (ISB # 5333)
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, ID 83702
Telephone: 208-345-5183
Facsimile: 208-908-8663
Emails: chd@fergusondurham.com
DAF@fergusondurham.com

Amy Whelan, Esq. (CA # 215675)
(*pro hac vice*)
Julie Wilensky, Esq. (CA # 271765)
(*pro hac vice*)
NATIONAL CENTER FOR LESBIAN
RIGHTS
870 Market Street, Suite 370
San Francisco, CA 94102
Telephone: 415-365-1338
Facsimile: 415-392-8442
Email: AWhelan@NCLRights.org
jwilensky@nclrights.org

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

ADREE EDMO (a/k/a MASON EDMO),

Plaintiff,

v.

IDAHO DEPARTMENT OF CORRECTION;
HENRY ATENCIO, in his official capacity;
JEFF ZMUDA, in his official capacity;
HOWARD KEITH YORDY, in his official
and individual capacities; CORIZON, INC.;
SCOTT ELIASON; MURRAY YOUNG;
RICHARD CRAIG; RONA SIEGERT;
CATHERINE WHINNERY; and DOES 1-15;

Defendants.

Case No.: 1:17-cv-00151-BLW

**PLAINTIFF'S MOTION TO SEAL EXHIBIT
B TO THE DECLARATION OF LORI
RIFKIN IN SUPPORT OF MOTION TO
STRIKE DECLARATION OF KRINA L.
STEWART AND FOR PROTECTIVE
ORDER**

Complaint Filed:	April 6, 2017
Discovery Cut-Off:	None Set
Motion Cut-Off:	None Set
Trial Date:	None Set

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of July, 2018, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

Dylan Eaton
deaton@parsonsbehle. com

J. Kevin West
kwest@parsonsbehle. com

Attorneys for Corizon Defendants

Brady James Hall
brady@melawfirm. net

Attorney for IDOC Defendants

/s/ - Lori Rifkin
Lori E. Rifkin

Lori Rifkin, Esq. (CA # 244081)
(*pro hac vice*)
HADSELL STORMER & RENICK LLP
4300 Horton Street, #15
Emeryville, CA 94608
Telephone: (415) 685-3591
Facsimile: (626) 577-7079
Email: lrifkin@hadsellstormer.com

Dan Stormer, Esq. (CA # 101967)
(*pro hac vice*)
Shaleen Shanbhag, Esq. (CA # 301047)
(*pro hac vice*)
HADSELL STORMER & RENICK LLP
128 N. Fair Oaks Avenue
Pasadena, California 91103
Telephone: (626) 585-9600
Facsimile: (626) 577-7079
Emails: dstormer@hadsellstormer.com
sshahbhag@hadsellstormer.com

Attorneys for Plaintiff

Craig Durham (ISB # 6428)
Deborah Ferguson (ISB # 5333)
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, ID 83702
Telephone: 208-345-5183
Facsimile: 208-908-8663
Emails: chd@fergusondurham.com
DAF@fergusondurham.com

Amy Whelan, Esq. (CA # 215675)
(*pro hac vice*)
Julie Wilensky, Esq. (CA # 271765)
(*pro hac vice*)
NATIONAL CENTER FOR LESBIAN
RIGHTS
870 Market Street, Suite 370
San Francisco, CA 94102
Telephone: 415-365-1338
Facsimile: 415-392-8442
Email: AWhelan@NCLRights.org
jwilensky@nclrights.org

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

ADREE EDMO (a/k/a MASON EDMO),

Plaintiff,

v.

IDAHO DEPARTMENT OF CORRECTION;
HENRY ATENCIO, in his official capacity;
JEFF ZMUDA, in his official capacity;
HOWARD KEITH YORDY, in his official
and individual capacities; CORIZON, INC.;
SCOTT ELIASON; MURRAY YOUNG;
RICHARD CRAIG; RONA SIEGERT;
CATHERINE WHINNERY; and DOES 1-15;

Defendants.

Case No.: 1:17-cv-00151-BLW

**PLAINTIFF’S MEMORANDUM OF POINTS
AND AUTHORITIES RE: MOTION TO
SEAL EXHIBIT B TO THE DECLARATION
OF LORI RIFKIN IN SUPPORT OF
MOTION TO STRIKE DECLARATION OF
KRINA L. STEWART AND FOR
PROTECTIVE ORDER**

Complaint Filed: April 6, 2017
Discovery Cut-Off: None Set
Motion Cut-Off: None Set
Trial Date: None Set

INTRODUCTION AND BACKGROUND

Defendant Idaho Department of Corrections (“IDOC”) filed a motion on July 11, 2018 in the Sixth Judicial District for the State of Idaho, County of Bannock, in which IDOC moved that Court for an order permitting disclosure of Ms. Edmo’s Presentence Investigation Reports (“PSI Reports”) to third parties in connection with the instant federal case. In this July 11, 2018 Motion, IDOC made multiple statements revealing substantive information from Ms. Edmo’s PSI Reports, which are sealed under Idaho Criminal Rule 32(h)(1). IDOC did not serve the July 11, 2018 Motion on Plaintiff’s counsel in this matter. Accordingly, Plaintiff filed a Motion to Strike Declaration of Krina L. Stewart and for Protective Order, which among other relief, seeks an order requiring Defendants to timely serve Plaintiff’s counsel in the instant case with any documents or subpoenas filed or served, regardless of forum, relating to discovery or other proceedings in this litigation.

In support of Plaintiff’s Motion to Strike and for Protective Order, Plaintiff’s counsel Lori Rifkin submitted a declaration attaching various exhibits related to these events. Exhibit B to the Rifkin Declaration is a copy of IDOC’s July 11, 2018 Motion. As this document contains substantive information from Plaintiff’s PSI Report that should remain sealed under Idaho Criminal Rule 32(h)(1) and implicates Plaintiff’s right to medical privacy, Plaintiff seeks an order pursuant to Local Rule 5.3 sealing this record from the public docket.

ARGUMENT

A party seeking to seal a judicial record bears the burden of overcoming the presumption in favor of public access by meeting the “compelling reasons” standard. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (2003). A party must demonstrate “compelling reasons supported by specific factual findings . . . that outweigh the general history of access and the public policies favoring disclosure.” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006). The Court must weigh relevant factors, including the public interest in understanding the judicial process and whether disclosure of the material could result in improper use of the material for scandalous or libelous purposes. *Pintos v. Pacific Creditors*

Ass'n, 605 F.3d 665, 679 n. 6 (9th Cir.2010). While the decision to grant or deny a motion to seal is within the court’s discretion, the court must articulate its reasoning in deciding a motion to seal. *Ibid*.

Sealing Exhibit B is appropriate here on two grounds. First, the document contains substantive information from Plaintiff’s PSI Report that is already sealed under Idaho Criminal Rule 32(h)(1). Second, the document discloses sensitive medical information. The need to protect medical privacy qualifies as a “compelling reason” to seal a document from the public record. *G. v. Hawai’i*, 2010 WL 2607483, at *1 (D. Haw. June 25, 2010); *Lombardi v. TriWest Healthcare Alliance Corp.*, 2009 WL 1212170, *1 (D.Ariz. May 4, 2009) (allowing the defendant to file exhibits under seal where they contained “sensitive personal and medical information” (citing *Kamakana*, 447 F.3d at 1179)); *Montin v. Ramsey*, 2009 WL 2225621, *2 (D. Neb. July 16, 2009) (allowing a reply brief and exhibits to be filed under seal where they contained medical and treatment records); *Skinner v. Ashan*, 2007 WL 708972, *2 (D.N.J. Mar. 2, 2007) (observing that medical records “have long been recognized as confidential in nature”).

Plaintiff’s purpose in filing the underlying motion seeking a protective order is to ensure that her protected information is not unduly put into the public record. Plaintiff submits Exhibit B to this Court in support of this requested relief because Defendants improperly disclosed Plaintiff’s protected information by filing Exhibit B in state court. If Plaintiff were required to file Exhibit B publicly in the instant case, it would compound the harm already done and undermine the precise relief she is seeking.

///

///

///

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of July, 2018, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

Dylan Eaton
deaton@parsonsbehle. com

J. Kevin West
kwest@parsonsbehle. com

Attorneys for Corizon Defendants

Brady James Hall
brady@melawfirm. net

Attorney for IDOC Defendants

/s/ - Lori Rifkin
Lori E. Rifkin

Lori Rifkin, Esq. (CA # 244081)
(*pro hac vice*)
HADSELL STORMER & RENICK LLP
4300 Horton Street, #15
Emeryville, CA 94608
Telephone: (415) 685-3591
Facsimile: (626) 577-7079
Email: lrifkin@hadsellstormer.com

Craig Durham (ISB # 6428)
Deborah Ferguson (ISB # 5333)
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, ID 83702
Telephone: 208-345-5183
Facsimile: 208-908-8663
Emails: chd@fergusondurham.com
DAF@fergusondurham.com

Dan Stormer, Esq. (CA # 101967)
(*pro hac vice*)
Shaleen Shanbhag, Esq. (CA # 301047)
(*pro hac vice*)
HADSELL STORMER & RENICK LLP
128 N. Fair Oaks Avenue
Pasadena, California 91103
Telephone: (626) 585-9600
Facsimile: (626) 577-7079
Emails: dstormer@hadsellstormer.com
sshahbhag@hadsellstormer.com

Amy Whelan, Esq. (CA # 215675)
(*pro hac vice*)
Julie Wilensky, Esq. (CA # 271765)
(*pro hac vice*)
NATIONAL CENTER FOR LESBIAN
RIGHTS
870 Market Street, Suite 370
San Francisco, CA 94102
Telephone: 415-365-1338
Facsimile: 415-392-8442
Email: AWhelan@NCLRights.org
jwilensky@nclrights.org

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

ADREE EDMO (a/k/a MASON EDMO),

Plaintiff,

v.

IDAHO DEPARTMENT OF CORRECTION;
HENRY ATENCIO, in his official capacity;
JEFF ZMUDA, in his official capacity;
HOWARD KEITH YORDY, in his official
and individual capacities; CORIZON, INC.;
SCOTT ELIASON; MURRAY YOUNG;
RICHARD CRAIG; RONA SIEGERT;
CATHERINE WHINNERY; and DOES 1-15;

Defendants.

Case No.: 1:17-cv-00151-BLW

**[PROPOSED] ORDER SEALING EXHIBIT B
TO THE DECLARATION OF LORI RIFKIN
IN SUPPORT OF MOTION TO STRIKE
DECLARATION OF KRINA L. STEWART
AND FOR PROTECTIVE ORDER**

Complaint Filed: April 6, 2017
Discovery Cut-Off: None Set
Motion Cut-Off: None Set
Trial Date: None Set

This matter having come before this Court on *Plaintiff's Motion to Seal Exhibit B to the Declaration of Lori Rifkin in Support of Motion to Strike Declaration of Krina L. Stewart and for Protective Order*, and good cause appearing therefore, **IT IS HEREBY ORDERED** that Exhibit B to the Declaration of Lori Rifkin in Support of Plaintiff's Motion to Strike Declaration of Krina L. Stewart and for Protective Order shall be sealed.

Dated this _____ day of _____, 2018.

B. LYNN WINMILL
Chief U.S. District Court Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of July, 2018, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

Dylan Eaton
deaton@parsonsbehle. com

J. Kevin West
kwest@parsonsbehle. com

Attorneys for Corizon Defendants

Brady James Hall
brady@melawfirm. net

Attorney for IDOC Defendants

/s/ - Lori Rifkin
Lori E. Rifkin